

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MERLINDA E. O.,

Plaintiff,

vs.

CIV NO. 1:24-cv-00459-KRS

FRANK BISIGNANO,¹
Acting Commissioner of Social Security,

Defendant.

**ORDER GRANTING AMENDED UNOPPOSED MOTION FOR
ATTORNEY FEES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT**

The Court, having reviewed Plaintiff's Amended Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 with Memorandum in Support (the "Motion"), (Doc. 24), **HEREBY ORDERS** that attorney fees be, and hereby are, awarded under the EAJA, payable to Plaintiff but mailed to Plaintiff's attorney in the amount of \$6,100.00 in attorney fees. *See Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney). Plaintiff shall also be awarded the \$405.00 filing fee payable to the Plaintiff's attorney, which is to be paid from the Department of Justice's Judgment Fund, 28 U.S.C. § 2412, not agency funds.

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

¹ Frank Bisignano became the Acting Commissioner of Social Security on May 6, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Frank Bisignano should be substituted for Leland Dudek as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

The award is subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2006).

A handwritten signature in black ink, reading "Kevin Sweazea". The signature is written in a cursive style with a large initial "K".

THE HONORABLE KEVIN R. SWEAZE
UNITED STATES MAGISTRATE JUDGE